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The Solicitors' Journal

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LAW AND LIFE.

There is not a man alive unaffected by the law, not a lawyer on the rolls untroubled by life. Law and Life, Life and Law, the two words are almost interchangeable.

The SATURDAY REVIEW has recently initiated under the general title of "Law and Life" a new occasional feature, contributed by an eminent lawyer, dealing with various aspects of the law and its changes as they affect the ordinary man and woman. This feature does not appear regularly but whenever occasion demands.

The SATURDAY REVIEW stands resolutely for personal liberty. In an age in which encroaching Bureaucracy and the rule of Interference are slowly and insidiously robbing the Englishman of his freedom, the "SATURDAY" holds a watching brief for Liberty. Certain well-known cases have lately brought this aspect of our national life into peculiar prominence. Vigorous comment on all of these will be found in the leading articles and notes of the SATURDAY REVIEW.

The same tone runs throughout the paper. The rising M.P. who under the pseudonym of "First Citizen" contributes the weekly Parliamentary sketch keeps a sharp eye on threats to liberty emanating from Westminster; Mr. Ivor Brown's brilliant criticism of new plays is ever watchful of the Censor and his works.

In addition, the "SATURDAY" offers first-class, up-to-date reviews of all the best new books, music and art, amusing literary competitions and brilliant topical essays.

Last but certainly not least must be mentioned the particularly accurate City information of "Taurus." A specimen copy of the "SATURDAY" will gladly be sent free of charge on application to the Circulation Manager, 9, King-street, Covent Garden, W.C.2. The annual subscription is 30s., post free to any part of the world.

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*** Notices to Subscribers and Contributors will be found on page iii.

VOL. LXXIII. **Saturday, August 10, 1929.** No. 32

Current Topics: Justice and Politics in China—Abuse of Poor Persons' System—Mister or Esquire?—Joy-riding Again—Insurance Policies and Cruelty to Animals—The Preservation of the Landscape—Nuisance by Noise—Futile Probation—"Ecclesiastical Duties" Enquiry—"Idle" Marriage Ceremonies 519

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Current Topics.

Justice and Politics in China.

ACCORDING TO *The Times*, Dr. HO SHIH-TSUNG, the successor in August of last year of Judge LOO HSING-YUAN, who was dismissed from the Presidency of the Provisional Court at Shanghai because he refused to make the court an appanage to the Kuomintang political machinery, has resigned office on the ground, as is alleged, that he too, was being continually subject to political interference which made his position impossible. In this country we have long been free from attempts to divert the course of justice by political pressure, but we have not always enjoyed the like freedom. During the STUART *régime*, both in England and Scotland, attempts were made to interfere with the opinions of the judges in cases in which the rights of the Crown were involved, and the noble conduct of COKE, in 1616, in refusing to be moved by the wishes of the KING, and insisting that he would do what was fitting for a judge to do, namely, give judgment according to law, has deservedly obtained for him the admiration of posterity. The situation in some parts of China, if the allegation is well-founded, that political considerations are brought to bear on the administration of justice, shows a sad declension from the happy condition of things which prevailed in that country in former days when, according to the old French essayist, MONTAIGNE, the officials deputed by the Sovereign to go on circuit were required not merely to punish those who were guilty of malversation, but to commend and reward those who conducted themselves well "beyond the common sort and beyond the necessity of their office." In view of this, MONTAIGNE considered that China surpassed France in several respects.

Abuse of Poor Persons' System.

A RECENT prosecution at Coventry police court of a man for knowingly and wilfully making a false under-statement of his income in order to be admitted as a poor person for legal aid in divorce proceedings shows that there are ways and means of checking a growing practice of abusing the privileges allowed by the legal profession to the really poor. A certificate of admission to sue as a poor person is supposed to be given under the rules of court where wages do not exceed £2 per week or *in special circumstances* £4 per week. The Warwickshire Law Society interprets the italicised phrase as covering cases where there is a large family. In the particular case the applicant made a sworn declaration that his average weekly wage was £2 10s. per week, but inquiry elicited the fact that it was £3 16s. a week. He pleaded that he did not understand that he ought to include overtime payment, but he was fined £5 and the justices uttered a warning that if any more such cases came before them they would be severely dealt with. Solicitors and counsel who give of their services freely to people admitted to sue as poor persons are aware that many people take advantage of this eleemosynary aid who can afford to pay at any rate a small sum for the relief they seek, and this aspect of the matter was dealt with recently by the President of the Divorce Court, Lord MERRIVALE, in the case of *Lawrence* v. *Lawrence*. As a result of his observations the Law Society now issues with the papers in each poor person's case a circular, pointing out in what circumstances profit costs may be recovered in poor persons' suits, and when application should be made to the judge. This circular adds (the italics are our own): "Should a conducting solicitor, at any time during the proceedings, discover that the poor person *or his relations* are in a position to pay full costs he should report the facts to the committee so that the committee may consider whether an application should be made for the discharge of the poor person's certificate." Since the President drew public attention to the question, the Law Society in London has been prompt to discharge certificates for good cause shown, but the root difficulty is the lack of machinery in Mr. HASSARD-SHORT'S hard-worked department, and indeed the lack of authority, to investigate the truth of the averments made by applicants. But it is clear that it is a public duty on the part of solicitors engaged in this gratuitous work to make inquiries if it seems that the suitor can afford the comparatively small sum which a paid divorce suit, if undefended, costs to conduct.

Mister or Esquire?

A MOTORIST whose name we forbear to mention, though it should be set in letters of gold on the façade of the temple of fame, took objection to a summons for a minor offence on the ground that he was described as "Mr.," when the King's Secretary always addresses him as "Esquire." Upon the case itself he said he "heard a shout of a vulgar description," but drove on past the policeman, whom, being placed in a signal box, he likened to a "monkey up a tree." We are very grateful to this gentleman. Such incidents in a tiring and monotonous afternoon at a police court are a delightful relaxing of the tension. Providence probably makes men vain for such delectation of their fellows. It seems to be the principal use of the conceited, but this particular specimen has thrown light on a difficult problem of sociology, the preference of the modern English male for a squiggle after his name once signifying a particular kind of servitor, to an unequally absurd prefix once designating a master. "Esquire," after being fined, left the court murmuring, "Scandalous and disgraceful." We suggest that his proper mount is not a motor car but a high horse.

Joy-riding Again.

The Motor in a recent issue has been pleased to be censorious of the Police Commissioner for "the complaisant attitude adopted" towards joy riders, and for casting over them "a mantle of condonation," but, although we agree that motor traffic simply cannot be carried on if cars are not to be left unattended in the streets, we fail to see how the police

can watch them all, or be held responsible for a gap in the law which has been pointed out many times to those responsible for approaching Parliament on matters of criminal law. How is a visitor to a town to see the place if he may not leave his car? True, there are recognised parking places, with attendants, but cars can be annexed even there, and to confide in casual watching is sometimes to invite the thief himself to be custodian. What the legal world has been unable to achieve may be carried by the motorists. They have great weight now in the community. If it comes to that, we are all motorists, more or less interested in the protection of property which runs or is carried on wheels moved on the roads by mechanical power. Joy-riding should be made ordinarily a summary offence, but power should be given for a jury to find a lesser verdict on an indictment for stealing. It might be better to deal with the whole subject comprehensively. Things other than motor cars can be "borrowed" with no intent of permanent deprivation of ownership. Stealing the use strikes us as a sensible provision of the Roman law, which did not concern itself solely with chariots.

Insurance Policies and Cruelty to Animals.

THE POSSIBILITY of the above operating by way of cause and effect is by no means remote, as shown by two recent cases before the Hartismere magistrates. The owner of a roan gelding was charged with cruelty by causing it unnecessary suffering through not obtaining proper treatment for an injury incurred while turned out to grass. The animal had been treated for shoulder trouble by an unqualified veterinary surgeon, who was also the agent for the company with which the horse was insured, the position being that the policy expired on the 24th June, and if the horse died before that date the defendant was entitled to £15, but if the horse were destroyed without the authority of the company or its agent, the defendant would receive nothing. The defendant was dissatisfied with the treatment, and wrote first to the insurance company and then to the Royal Society for the Prevention of Cruelty to Animals, whose inspector discovered that the horse had a fracture in the pastern bone in the off foreleg, and advised immediate destruction. The defendant willingly complied, but the prosecution contended that the horse should have been shot ten days earlier, as crepitation of the fractured bones could be plainly heard, and if qualified advice had been taken no other course would have been possible. The defendant's case was that he had done all he could for the horse, and having called in the unqualified practitioner, it was the latter's place to discover what was wrong. The bench convicted the owner, who then gave evidence against his first adviser, the latter being charged with aiding and abetting the owner in causing unnecessary suffering to the horse The owner admitted that he wished to be authorised to destroy the horse, but denied offering £1 or £2 for permission, as he intended to have the horse destroyed even if he thereby lost all claims under the policy. The second defendant's case was that he had doctored horses for thirty years without complaint as to his skill or attention, that no pastern bone was broken when he first treated the horse for a kick on the shoulder, and that the bones must have been broken by the animal's foot slipping into a hole after he had seen it. Lord HENNIKER, chairman, stated that the owner would be fined £1 and £3 7s. costs, and the second defendant £5 and £3 7s. costs.

The Preservation of the Landscape.

THE ABOVE ideal is rarely attained as the result of commercial rivalry, but an example of this effect being produced occurred recently at Ledbury, in *Berry* v. *Malvern Hills Conservators and Cooper*. The complainant, the proprietor of the British Camp Hotel, tendered, in 1927, for a site for a tea-room, and offered £10 for the season from April onwards, but the Conservators refused his application on the ground that the site was already let to the second defendant. The latter had had a portable hut in 1928 on the site in question, but this year he had erected—with the permission of the Conservators—a new long building composed of forty-five sections, standing on joists and loose bricks, covered with galvanised iron, and measuring 32 feet by 12 feet. The complainant relied on the Malvern Hills Conservators Act, 1884, s. 10, which states that no enclosure shall be made or building erected on lands subject to the Act, and that any court of summary jurisdiction shall have power to require any person to abstain from building upon any part of the lands, and from suffering any new building to continue. The defence was that the giving of a licence or authority to someone else to put up an erection did not constitute an infringement of the Act, and the second defendant pleaded that the erection was put up with the sanction of the Conservators. Mr. S. H. BICKHAM, chairman, stated that the magistrates' order was for the removal of the tea-room in twenty-eight days, the complainant's costs to be paid—by the Conservators only—to the amount of £20. Another aspect of the above subject was discussed in a Current Topic under the same title in our issue of the 9th March, 73 SOL. J. 148.

Nuisance by Noise.

A TYPICAL example of a nuisance created by noise arose in the recent case of *Vanderpant* v. *Mayfair Hotel Company Limited*, reported in *The Times*, 30th ult. The carrying on of a large kitchen of one of London's most luxurious hotels in the early hours of the morning had caused unnecessary annoyance to the occupier of adjoining premises. Interference with the enjoyment of property by noise is subject to the same principles which govern other kinds of interference. The interference complained of must be extraordinary, and it must lessen the material comfort of the plaintiff. It is in every case a question of fact whether the user of the defendants' premises is extraordinary, and whether it constitutes a nuisance. Moreover, in cases of this description, the nature of the locality is a question to be considered. This idea is expressed by THESIGER, L.J., in *Sturges* v. *Bridgeman* (1879), L.R. 11 Ch.D. 852, when he said that what might be a nuisance in Belgrave Square would not be a nuisance in Bermondsey. But at the same time the learned lord justice was careful to point out that "whatever the standard of comfort in a particular district may be, I think the addition of a *fresh noise* caused by the defendants' works may be so substantial as to create a legal nuisance." In *Vanderpant* v. *Mayfair Hotel Company Limited, supra*, the noise in the hotel kitchen caused by the unloading of provisions, the handling of utensils and the shouting of persons engaged in these operations, which commenced at six o'clock in the morning, was plainly heard in the dining-room and bedrooms of the plaintiff's house. It was held that these noises interfered with the comfortable and healthy enjoyment of the plaintiff's premises according to "the plain, sober and simple notions obtaining among English people," and accordingly an injunction was granted to restrain the noises which formed the subject of complaint by the plaintiff.

Futile Probation.

THERE IS at the moment a healthy reaction against the futility of repeated bindings over of young offenders. To bind over once to come up for conviction and sentence is a salutary proceeding in an immense number of cases. So successful is probation that where there is even a doubt of its likely efficacy in a particular case it ought nevertheless to be tried. Special circumstances may justify a second binding over of the same offender, but to go on to a third, fourth, or, even as sometimes happens, a fifth or sixth application of this method, is to go through the motions of administering justice to the amusement and contempt of the offender. The great hope of dealing successfully with the criminal is to cut off the supply of youthful offenders, and immediately

leniency is proved to be misplaced, they ought to be placed under discipline which may eradicate their ill propensities. There is now a wide range of treatment at the disposal of magistrates and judges. To use one method to the exclusion of all the others is to fail in many particular cases and to bring into disrepute a valuable aid to the cure of anti-social conduct.

"Ecclesiastical Duties" Enquiry.

THE RECENT appointment of a Commission by the BISHOP OF GUILDFORD to enquire into allegations against the seventy-six year old Vicar of a Surrey parish, serves to draw attention to the provisions of the Benefices' (Ecclesiastical Duties) Measure, 1926, under which this Commission was set up. The proceedings (over which Mr. CECIL WHITELEY, K.C., presided) were, we believe, the second occasion only so far in which recourse has been had to the machinery of this statute. The first occasion was at Gloucester last year when an enquiry lasting several days was held in that city concerning some scandal in which a local incumbent was concerned. The occasion was made the most of by a certain section of the press, and grave doubts were expressed in religious circles as to the wisdom of having a committee of seven persons sitting in public at what must have been enormous expense to enquire into what amounted to little more than village gossip. The measure provides that where the Bishop thinks the ecclesiastical duties of a benefice are inadequately performed, he can appoint a Commission of enquiry. If the Commissioners find that the duties are inadequately performed, the Bishop has various powers of himself appointing a curate and inhibiting the incumbent or of requiring the incumbent to nominate a curate, according to whether the Commissioners have found negligence by the incumbent or not. We should have thought that this was a matter the Chancellor of the Diocese was competent to try. To set up a Commission of seven persons for such a cause seems rather ponderous procedure. The Kingston case turned out to be of a similar nature to that heard at Gloucester; and the newspaper reports again emphasise the view taken by many responsible churchmen of the undesirability of this particular form of procedure. We understand that it is probable that a debate will be raised when the Church Assembly meets again in the autumn as to the desirability of amending this measure. The proceedings in the Surrey case appear to have ended in the resignation of the incumbent in question, and the report of the Commission will probably not be made public.

"Idle" Marriage Ceremonies.

MR. JUSTICE HILL, in the recent case of *Hewett* v. *Hewett and Dupin*, definitely laid it down that for his part he would not countenance applications of counsel that where after being married a couple go through a second form of marriage, the second ceremony should be mentioned in a decree *nisi* of divorce. His Lordship intimated that he had power to dissolve marriages only, and he could not dissolve idle ceremonies. When it was represented to him that the mention of the second ceremony in the order embodying the decree would make things right so far as the register was concerned, he said that if it was desired to get rid of the second ceremony, there must be a petition for a declaration of nullity. There were peculiar circumstances in the particular case which prompted these remarks, but from time to time the Divorce Court has allowed a second ceremony to be referred to in a decree *nisi* for the purpose of saving the parties from awkward situations that might arise if the record of a second ceremony, apparently a valid and undissolved marriage, remained uncorrected. It is by no means unusual for a civil marriage at a register office to be followed, for sentimental or religious reasons, by a church service, and in some cases such ceremony is recorded on the official register as a marriage. As Mr. Justice HILL says, the position can be cleared up by a declaration of nullity, but that is an expensive process.

Criminal Law and Police Court Practice.

TIRED POLICEMEN.—A chairman of petty sessions near London has raised the question of the hours of duty of traffic policemen as affecting their efficiency. While he acknowledges how extraordinarily well they perform their duties he thinks that they work an excessive number of hours, with the result that sometimes their signals are not as clear as they ought to be and are misunderstood by motorists.

We believe that in the Metropolitan police the time of duty, on traffic or beat, is eight hours, with an interval of half an hour for refreshment; but that, in fact, a man on a particularly busy point occasionally changes with a man on an adjacent beat for a short spell to relieve the tension. Years ago, police officers had, if we remember rightly, four hours on duty, then four hours off, followed by another four hours on; but the men themselves preferred to get the eight hours done in one turn.

Regulating traffic must often be trying and tiring work. Fortunately, however, most policemen are very fit men with very sound nerves, and they can stand strain better than most people. We apprehend that any suggestion of dividing the duty into two periods would be unpopular, while a proposal to shorten the total time worked would raise financial difficulties.

One excellent piece of advice to motor car drivers was given by the same chairman: if they are not absolutely sure that a signal means that they are to proceed, they should stop until the policeman "absolutely beckons them on." To follow this practice in dealing with signals by police or scouts is to practise safety-first principles. If everyone did this there would be fewer accidents and fewer prosecutions.

THE DOCTOR'S FEE AND THE ACCUSED.—We doubt whether the whole of the facts of the Brighton case that has aroused newspaper comment have been correctly reported. If they have, the action of the police is certainly open to criticism. It is said that a man who was arrested because he was alleged to be drunk demanded to see a doctor, and was seen by the police surgeon, who pronounced him sober; thereupon he was released, but the police retained 7s. 6d. of the money found on and taken from him at the time of his arrest.

Unless the prisoner had agreed to pay the doctor's fee there would seem to be no ground for keeping his money; even if he were held civilly liable because he called in the doctor the correct procedure would be to demand the money and sue him if need be. Beyond that there is the larger principle of justice which would, in the minds of most people, entitle the man who was mistakenly accused to be free of expense, as far as possible, in establishing his innocence out of the mouth of a police official.

When a case reaches the court, the better practice, which is adopted in many places, is to notify the court when a police surgeon's fee has been incurred and to leave it to the court to decide the question of costs in the ordinary way. Generally, no costs can be awarded against an acquitted defendant. In London it is arguable that s. 31 of the Metropolitan Police Courts Act, 1839, gives such a power; but in practice it is rarely if ever invoked in that way. Here, apparently, the charge was refused, and the court was not concerned; we think the police might have been well advised to forgo their claim to the doctor's fee.

LECTURE BY J. H. MORGAN, K.C.—"DOMINION STATUS."

With reference to the Rhodes Lecture, delivered at the University of London, on Friday, the 15th of March last, by Mr. J. H. Morgan, K.C., and published as a Supplement to THE SOLICITORS' JOURNAL, in our issue of 23rd March, we should like to state that the Lecture itself was published from Mr. Morgan's original manuscript (which he kindly lent us for the purpose), and will, we understand, be included in his forthcoming book, "The Law and Constitution of the Empire," shortly to be published by Messrs. Cassell & Co., Ltd.

The Companies Act, 1929.

By ARTHUR STIEBEL, M.A., Barrister-at-Law (Registrar, Companies—Winding Up—Department, and Author of "Stiebel's Company Law and Precedents").

(*Continued from p.* 509.)—VII.

Directors and Managers.—The expression "director" in the Act includes every person who occupies the position of director by whatever name called. Directors are managing partners, their powers are regulated by the articles, and a company cannot intervene or exercise any power conferred on them by the articles, though in some cases the company may be able to exercise such a power where the directors will not or cannot exercise it. Directors are not trustees, but they are in some respects trustees of their powers and of the property and assets of the company. They are in no sense trustees for the creditors or for individual shareholders, their trust, so far as it goes, is for the company.

In the case of companies registered after the commencement of the Act there must be at least two directors, but this will not apply to a private company.

A person is not capable of being appointed director by the articles and may not be named as director or proposed director in a prospectus issued by or on behalf of a company, or as proposed director of an intended company in a prospectus issued in relation to that intended company, or in a statement in lieu of prospectus, unless, before the registration of the articles or the publication of the prospectus or the delivery of the statement in lieu of a prospectus, as the case may be, he has:—

(1) Signed and delivered to the registrar of companies for registration a consent in writing to act as director; and

(2) Either—

(i) Signed the memorandum for a number of shares not less than his qualification, if any; or

(ii) Taken from the company and paid or agreed to pay for his qualification shares, if any; or

(iii) Signed and delivered to the registrar for registration an undertaking in writing to take from the company and pay for his qualification shares, if any; or

(iv) Made and delivered to the registrar for registration a statutory declaration to the effect that a number of shares not less than his qualification, if any, are registered in his name.

There is a new provision that a person who signs and delivers such an undertaking to the registrar will be in the same position as if he had signed the memorandum for that number of shares.

On the application for registration of the memorandum and articles of a company, the applicant must deliver to the registrar a list of the persons who have consented to be directors of the company. This section does not apply to a company which has not a share capital, a private company, or a company which was a private company before becoming a public company, or to a prospectus issued after the expiration of one year from the date on which the company is entitled to commence business. It is thought that these provisions will apply to an offer for sale in the same way as they apply to a prospectus.

Articles usually require directors to hold a certain number of shares, and this is what is called his qualification.

In addition to the above provisions with regard to qualification shares, every director must obtain his qualification shares within two months after his appointment, or such shorter time as may be fixed by the articles. Shares specified in a share warrant will not count for such qualification.

The office of a director will be vacated if he does not comply with these provisions or if after the expiration of the two months or shorter period he ceases to hold his qualification. Anyone who vacates his office under this section will be incapable of being re-appointed director of the company until he has obtained his qualification.

In future, undischarged bankrupts may not act as directors, or directly or indirectly take part in or be concerned in the management of any company, except by leave of the court, by which they were adjudged bankrupt, and a heavy punishment is imposed if this provision is disregarded. This rule does not apply to an undischarged bankrupt who has acted as a director of, or taken part or been concerned in the management of a company, if he was on the 3rd of August, 1928, acting as director of, or taking part or being concerned in the management of, that company, and has continuously so acted or taken part or been concerned since that date.

In England the leave of the court for the purposes of this section may not be given unless notice has been given to the Official Receiver in Bankruptcy, and he may attend the hearing of and oppose the granting of the application.

The acts of directors or managers will be valid notwithstanding any defect that may afterwards be discovered in their appointment or qualification. This provision is of great importance as it has the effect of validating transactions entered into with *de facto* directors.

A register of directors or managers must be kept containing their christian and surnames and other particulars. This register must be kept at the registered office of the company. Changes must be entered therein, and the company must make a return of these particulars and any changes therein within fourteen days of the appointment of first directors or of the change.

This register will be open for inspection, and if inspection is refused the court may by order compel an immediate inspection.

Companies incorporated under the Act, and companies incorporated outside Great Britain which have established places of business in Great Britain, will have to state similar particulars as to their directors on trade circulars, letters and other documents, in which the company's name appears. The Board of Trade may grant exemption.

These provisions do not apply to companies incorporated before the 23rd November, 1916, or to foreign companies which established a place of business before that date. They do, however, apply to all companies licensed under the Moneylenders Act, 1927.

Directors, managers, or a managing director of a limited company may have unlimited liability. This must be provided by the memorandum, but the memorandum may be altered by special resolution so as to impose such liability if the articles allow this to be done.

The remuneration of directors and the terms on which they are to hold office are usually fixed by or pursuant to the articles, and without any written contract. A managing director, on the other hand, usually has a contract in writing outside the articles.

In future, directors must, on demand in writing, of members entitled to not less than one-fourth of the aggregate number of votes to which all the members of the company are entitled, furnish to all the members of the company a statement showing as respects each of the last three preceding years in respect of which the accounts of the company have been made up, the aggregate amount received in that year by way of remuneration or other emoluments, by persons being directors of the company or otherwise in connection with the management of the affairs of the company. Emoluments or remuneration received from subsidiary companies by any director must be included—and this also applies where a director has received remuneration or emoluments as director of a company by virtue of the nomination direct or indirect of the company whose directors have been required to furnish the statement. The statement must be certified as correct, or with such qualification as may be necessary, by the auditors of such company.

Where income tax, super tax or surtax has been paid in respect of any emoluments, the sum received must be increased by that amount. The statement need not be supplied if the company, within one month after the demand, resolve that it shall not be furnished.

Apart from provision to that effect in the articles, no director can enter into or be concerned in a contract with the company, unless the contract is approved by the company in general meeting after full disclosure. The articles often vary or abrogate this rule—but in future, where a director enters into or is concerned in a contract with the company, disclosure is required in all cases. On a sale of all or part of the undertaking of a company full disclosure must be made of all payments by way of compensation to directors for loss of office. Failing such disclosure a director will hold any money so received as trustee for the company. The same rule applies where a payment to directors is made in connection with an offer to purchase the shares of the general body of shareholders, but in such case money received by a director will, in default of disclosure, be held for the shareholders who have accepted the offer. If a director whose office is to be abolished receives more for his shares than other holders of similar shares, such excess will be a payment by way of compensation for loss of office.

An assignment of the office of director or manager, made under a power in that behalf in the articles or in an agreement with the company, will only be effective if sanctioned by a special resolution.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.—Any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any director, manager or officer of the company, or any person (whether an officer of the company or not) employed by the company as auditor from, or indemnifying him against any liability, which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company will be void.

This will not apply as regards any provision which is in force at the commencement of the Act until six months after that date. Further, it will not deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force. The position of directors is that they are not liable if they simply do nothing, and they will not be liable for errors of judgment. Subject to this they will be liable where their action is the effective cause of misfortunes that have overtaken the company, and they have either wilfully misapplied the company's property or abused their powers or have been guilty of gross negligence. They will not be liable for the acts of others on whom they have relied only to the extent that is usual in their business. Directors are entitled to plead the Statute of Limitations, and, as will be seen, the court can in certain cases grant them relief.

Arrangements and Reconstructions.—Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the court has power to order meetings.

If a majority in number representing three-fourths in value of the creditors or any class of creditors, or members or any class of members, as the case may be, present and voting either in person or by proxy, agree to any compromise or arrangement, the compromise or arrangement will, if sanctioned by the court, be binding on all the members of the classes which have been so summoned and also on the company or, in the case of a company being wound up, on the liquidator and contributories of the company.

The expression "arrangement" in this section includes a re-organisation of share capital by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both these methods.

For the purposes of this section the expression "company" means any company liable to be wound up under the Act. Under this section the court can sanction almost anything for which provision is not made under any other section of the Act, including acts which are *ultra vires* the Company, and consequently could not be sanctioned by all the members. Thus, for example, it can sanction a scheme altering rights conferred on shares by the memorandum, and also one involving a sub-division of shares not authorised by the earlier section on the subject. Orders under this section must be delivered to the Registrar of Companies for registration, and a copy of every such order must be annexed to every copy of the memorandum issued after the order is made.

Where applications have been made under these provisions, if the companies concerned are companies within the meaning of the Act new powers are given to the court for the purpose of facilitating reconstructions and amalgamations. The court is given power to make an order transferring to the new company all the property and liabilities of the old company, and to dissolve the old company without any winding up It can also give directions as to the allotment and appropriation of shares and debentures by the transferee company, and as to the provision to be made for dissentients.

Where 90 per cent. of the shareholders of a company, or of any class of shareholders, have agreed to accept an offer for the shares under a scheme or contract involving the transfer of shares or shares of any class in a company to another company, notice may be given requiring the remaining shareholders to sell their shares at the price so agreed upon. The shareholders will be required to sell unless they can obtain an order from the court relieving them from such liability. In the case of schemes before the Act the court can within two months after the commencement of the Act authorise notices to be given under this provision, but in this case the court will fix the terms upon which the shares of a dissenting shareholder are to be acquired.

(To be continued.)

Picnic-makers and the Law.

THE present time of the year brings to the shady country lanes numbers of motorists, cyclists and other holiday-makers intent on enjoying a picnic in undisturbed peace, away from the main-road traffic, and, as they may imagine, away from the upraised finger of the law. And, although the shadow of the law in reality follows them the whole time, the holiday-maker almost naturally conceives that a public road, and especially a bye-road, is a haven where he may legally do as he will.

This misconception is not very surprising having regard to loose allusions by laymen to "the King's highway," and its freedom, but the fact is that the public easement over a highway is merely to pass and re-pass, pausing only for such time as is reasonable, a fact which is well illustrated by the leading case of *Harrison* v. *Duke of Rutland* [1893] 1 Q.B. 142.

The public, therefore, are entitled to do little more than rest and eat by the road, apart from passing and re-passing, and yet there must be few picnic-makers who have not succumbed to the temptation of picking flowers and roots, and even uprooting young trees, not only from lanes themselves, but also from private land. Roots and ferns and the like are often taken home and planted, the practice being regarded as harmful to none and certainly not illegal. Even a lawyer (if lawyers ever find time to engage in such pursuits) might congratulate himself on s. 1, sub-s. (3), of the Larceny Act, 1916, which declares that growing things and things "savouring of the realty," are incapable of being stolen unless first severed, then abandoned, and then re-taken. But this ancient theory,

based on the impossibility of stealing land, has certain qualifications which, technically, at least, bring the gatherers of roots within the purview of the criminal law.

By s. 33 of the Larceny Act, 1861, "whosoever shall steal cut, break, root up, or otherwise destroy or damage with intent to steal, the whole or any part of any tree, sapling, or shrub, wheresoever the same may be growing," to the value of 1s. at least, is liable to a fine not exceeding £5 above the value of the thing stolen, and for a second offence to imprisonment with hard labour, not exceeding twelve months.

Moreover, by s. 35, "if the whole or any part of any tree, sapling or shrub of the value of 1s. be found in the possession or on the premises of any person with his knowledge and such person shall not satisfy a justice that he came lawfully by the same" that person is liable to a fine not exceeding £2 above the value of the article found.

More severe penalties, of course, are denounced for the stealing of vegetable productions from gardens, and it is also, by s. 37, made an offence to steal cultivated roots or plants used for various purposes, from places elsewhere than gardens, and stealing clover appears to be within this section. The punishment in this case is not more than one month's imprisonment, or a fine not exceeding 20s. A second offence, however, will be visited with imprisonment with hard labour for not more than six months.

Beyond these offences, there appears to be little else in which picnic-makers may offend the law, except that whatever care is taken to park a car well off the road, the parking may still be a technical obstruction.

A great deal of indignation has been vented in the Press against the littering of paper and bottles about the countryside, and while this is certainly a considerable evil, it does not appear to be an offence. The only act of this nature which might be punishable is the leaving of a broken bottle in the road. It is an offence to lay any ashes, rubbish or other matter or thing whatsoever upon any highway to "the injury, interruption or personal danger of any person travelling thereon," and it is conceivable that a person might be injured, or that a motorist or cyclist would receive a puncture (to his injury and interruption) by such an act, which would then be punishable. These matters are necessarily of technical interest only, for the police seldom exercise their zeal in country lanes, although some angry landowner might avail himself of the statute, and exact a more complete retribution than his civil rights would afford him.

A Conveyancer's Diary.

Inducement not to exercise Statutory Powers of Tenant for Life.

The case of *Re Patten; Westminster Bank Ltd.* v. *Carlyon* [1929] W.N. 155, affords a good illustration of the operation of s. 106 of the S.L.A., 1925. It is not necessary, here, to set out the section in full, but I may paraphrase it shortly by saying that any provision in a settlement is deemed to be void if (*a*) it purports or attempts in any way to forbid a tenant for life to exercise any of his powers under the Act, or (*b*) attempts or tends "by a limitation, gift, or disposition over of settled land or by a limitation, gift or disposition of other real or any personal property or by the imposition of any condition, or by forfeiture, or in any other manner whatever to prohibit or prevent him from exercising or to induce him to abstain from exercising" any of his powers under the Act. The facts in *Re Patten* were that a testator directed his trustees to retain £3,000 out of his estate and to apply the income in payment of the rates, taxes and repairs of his freehold house. And as to his freehold house, he desired that his aunt should "have the use of it and any furniture free of cost for her occupation during her life or so long as she may require them, but without the power to sub-let the same or any part thereof; on the termination of her occupation the house is to be sold," and from the proceeds, added to the £3,000, certain legacies were given.

Now, it is clear that the testator's aunt was a person having the powers of a tenant for life of the freehold house in question within the S.L.A., 1925, s. 20 (1) (vi), and, therefore, any attempt to restrain her from exercising her powers as such would be void, and also (what may have been even more important in that case) any provision tending to induce her not to exercise her powers under the Act would be void.

The matter came before the court on an originating summons issued by the executor and trustee of the will for the determination (*inter alia*) of the position of the tenant for life as to the house and the interest of the £3,000 in the event of her ceasing to reside there.

A full report of the judgment in this case would be of interest. It appears, however, that Romer, J., said that if the tenant for life ceased to occupy the house for any reason other than that resulting from the exercise of her powers as a tenant for life under the S.L.A., 1925, the directions in the will to take effect upon the termination of her occupation would at once come into operation.

The provision against sub-letting was clearly void so far as concerned any letting under the powers contained in the Act. Therefore, the condition with regard to residence would not be effective if the tenant for life chose to create such a tenancy. The provision requiring the house to be sold and the proceeds (together with the £3,000) divided, would also fail of effect in the event of any sale or letting under the statutory powers. The tenant for life would be entitled to the income of the proceeds of sale notwithstanding the direction for division.

The interesting question then arose with regard to the disposition of the £3,000.

The learned judge held that the gift over of that fund upon the termination of the occupancy of the tenant for life was a provision which tended to induce her not to exercise her powers of leasing as tenant for life, and was to that extent void under the section. If the house was let the trusts of the income of the £3,000 fund would continue and would still be applicable for payment of the rates, taxes and repairs of the house thereby enabling the tenant for life to obtain a larger rent than would otherwise have been obtainable. If, however, the tenant for life sold under her statutory powers, the trusts of the income of the £3,000 would cease. It was contended that the tenant for life would, after a sale, be entitled for her life to so much of the income of the £3,000 as would have been required to pay the rates, taxes and repairs if the house had remained unsold. The learned judge, however, decided otherwise.

A similar point arose in *Re Simpson* [1913] 1 Ch. 277. In that case, also, there was a provision for payment of the outgoings and repairs and performance of covenants during the residence of the tenant for life, and it was held that those provisions were merely an extra benefit conferred on the tenant for life to enable her to reside in the house without the expense of the outgoings and did not tend to induce her not to exercise her statutory power of sale. In that case Swinfen Eady, J., refused to follow the decision of Byrne, J., in *Re Trenchard* [1900] 16 T.L.R. 525, but preferred the view expressed by Buckley, J., in a subsequent application in the same case (*Re Trenchard* [1902] 1 Ch. 378). In *Re Patten*, Romer, J., followed *Re Simpson*, and held that, on a sale by the tenant for life under the statutory powers, she would not be entitled to any part of the income of the £3,000. No doubt this view was right, but I think that most tenants for life would think it an inducement not to sell the house so long as there was a fund available for payment of the outgoings, the benefit of which would not pass to a purchaser, and therefore not enhance the price obtained, whilst by letting the premises the benefit would be represented in an increased rent. However, it seems that, although an inducement not to sell, it was not an inducement not to let, and so did not come within the mischief of sub-s. 1 (*b*) of s. 106 of the Act.

Landlord and Tenant Notebook.

Effect of Waiver of Breach of Covenant.

Attention might usefully be drawn to the case of *Coplovitch* v. *Williams* (*ante*, p. 484), which has a bearing on the question of waiver of breach of covenant. The material facts in the above case were briefly as follows:—

The defendant was the tenant of certain premises, under an agreement entered into between him and the agents of the landlord, one Riley, which contained a covenant restricting the user of the premises or any portion thereof "for any other purpose than that of a milliner to sell ladies' hats blouses and boots." The defendant, however, who carried on the business of a milliner sold many other kinds of articles than those specifically referred to in the covenant, and from the evidence it appeared that the landlord's agents and the landlord himself knew that the covenant was being broken but raised no objection thereto.

Subsequently the plaintiff bought the freehold of the premises from the executors of the landlord, and determined the defendant's tenancy by a notice to quit, and later brought an action claiming damages and an injunction in respect of the breaches of covenant in question.

Covenants restricting user come, of course, within the category of covenants, a breach of which is of a continuing nature, the covenant being regarded as being continuously broken, so long as the premises are being put to a prohibited use: *Doe d. Ambler* v. *Woodbridge* (1829), 9 B. & C. 376. Such covenants are unlike covenants against assignment for example, which type of covenant is broken once for all, on the prohibited assignment taking place.

This distinction is of great importance, because while in the latter case, a single act of waiver, as for example, by acceptance of rent with knowledge of the breach, is sufficient to wipe out the breach entirely, in the former case, this result does not follow, since there is always a fresh breach by the continued user of the premises after the particular waiver.

If one examines the case of *Griffin* v. *Tomkins*, 42 L.T.R. 359, it would appear, that even in the case of covenants restricting user, an act of waiver may in certain circumstances amount to a waiver once for all, so as to entitle the tenant to continue to use the premises in a manner originally prohibited by the lease.

In *Griffin* v. *Tomkins* there was a covenant restricting the user of the premises for any business purposes whatsoever. Certain alterations, however, were made to the premises by consent, and part of the premises was used for a plumber's business. Subsequently, rent was received on two different occasions with full knowledge of the breach, and eventually proceedings for forfeiture were commenced, on the basis of the breach being a continuing one. It was held, that the action could not succeed. In his judgment Cockburn, C.J., said: "I cannot help thinking that, where a lessor with full knowledge that a breach of this particular description has been committed waives the forfeiture by a distinct acceptance of rent accruing due after the forfeiture, that amounts not merely to a waiver of the past breach but to a licence to continue the breach in the future."

Although there may be cases in which a continued waiver of such a covenant may warrant the inference of an implied licence to continue the user in the future, it would appear to be safer to base a refusal to order a forfeiture on some other ground, and this was the course adopted in *Coplovitch* v. *Williams*, the Vice-Chancellor preferring to base his decision on *Sayers* v. *Collyer*, 28 Ch. D. 103. In that case the premises in question formed part of a building estate, in respect of which there was a restrictive covenant prohibiting user for the purpose of any business.

The defendant used the premises as a beer shop, and the plaintiff, who was a purchaser of one of the other lots, had known for several years that the premises were being so used, and had in fact purchased beer there. In an action by the plaintiff against the defendant to enforce the covenant, it was held, that the action could not lie, on the ground that the plaintiff had disentitled himself by his conduct to the relief claimed.

Acting on this principle the learned judge in *Coplovitch* v. *Williams* refused to grant an injunction, and he further refused damages as there was no proof of any damage to the reversion by reason of the breach.

Our County Court Letter.

THE AUTHORITY OF MINOR MUNICIPAL OFFICIALS.

The above subject has gained in importance with the increase of municipal trading, and the need for investigation as to what is *ultra vires* a local authority or its officials is shown by two recent cases. In *Millen* v. *Dartmouth Corporation*, at Torquay County Court, the plaintiff was an illusionist, and claimed £21 for breach of a contract entered into by the defendants' toll collector. The latter had agreed for the reservation of a site for the plaintiff's caravan during the regatta at a charge of £2, on account of which the toll collector had received 10s. as a deposit and had issued a receipt. The plaintiff's *modus operandi* was to make tables rise by the fingers, and having told the crowd it was a swindle, he would sell pamphlets at 6d. each on magic and second sight, but when about to start he was stopped by a police sergeant. The town clerk had refused an interview to the plaintiff, who accordingly claimed the above sum as damages calculated on his takings at regattas in previous years, his case being that in any event—if the toll collector had no authority—the 10s. should have been returned in the absence of a contract. The defence was that the toll collector had no authority to make the contract, and that as soon as the responsible authority found that the money was in the corporation's possession, it was made clear to the plaintiff that the money was for parking. His Honour Judge Higgins stated that the only question was whether, on the evidence, the toll collector had implied authority to make a bargain, the terms being that the plaintiff should have the site for the purpose of an exhibition, and 10s. having been accepted as a deposit in respect of a contract to be performed during the regatta. The deposit had been paid to the borough collector before the regatta, and was therefore in the hands of the defendants, who were put into the position of having to enquire into the bargain made for them. Unless they repudiated the collector's authority before the regatta, they were responsible for carrying out the contract, and judgment was therefore given for the plaintiff with costs.

The liability in tort was considered at the last Devon Assizes in *Jesson* v. *Torquay Corporation*, in which the plaintiff claimed damages for assault and wrongful detention. A commissionaire on the fish quay had issued a free parking ticket for a car to the plaintiff, who attended an entertainment at the pavilion, but later on another attendant seated himself in the car and refused to allow it to be moved, until a fee of 1s. had been paid. The attendant was persuaded to dismount and take the number, in order to report the matter, but when the car was about to move he used abusive language and hit the plaintiff on the nose, seized him by the throat, and caused him to fall to the ground. The attendant was apparently annoyed because another car had moved off without paying the parking fee, but the defence was that any blow struck was in self-defence, and that no greater force was used than was necessary, although the plaintiff was a one-armed man. It was further contended that (1) there was no evidence of imprisonment; (2) the alleged assault was not an act in the course or scope of the attendant's business; (3) a corporation had no power to arrest or hit anybody. The jury found that the attendant was acting within the scope and in the course of his employment, and awarded damages amounting to £75, judgment for that sum being given by Mr. Justice Hawke.

With regard to the third ground of defence in the last-named case, the possibility of a local authority being liable for false imprisonment had been established in *Percy* v. *Glasgow Corporation* (1922), 66 Sol. J., p. 555. A tramway passenger had there tendered a penny which was slightly dented, but was nevertheless a good tender of his fare. The conductor rejected the coin and an inspector demanded another penny, but the passenger declined to pay and offered his name and address, being subsequently given into custody on a charge of refusing to pay his fare. Damages were claimed on grounds which were held by the Court of Session to disclose no cause of action, but the House of Lords held that the tramway officials, acting in the course of and within the general scope of their employment, might have improperly exceeded the powers conferred by the bye-laws upon their employers, the defendants, and that the latter could be held responsible on proof of the facts.

Practice Notes.

DISCLAIMER OF LIABILITY BY ADVERTISEMENT.

Proper steps must be taken to notify a withdrawal of authority to pledge credit—whether of a husband or a firm—and the inadequacy of a newspaper announcement for this purpose was shown in the recent case of *Wharfedale Farmers' Auction Mart Co.* v. *H. Rosenhead and Son*, at Otley County Court. The defendant firm had dealt at the mart for many years, and on the date in question a son of one of the partners bought cattle, calves and poultry to the value of £137 in the name of the firm, who paid £71 for the cattle and calves, but denied liability for the poultry. The plaintiffs contended that they were not aware until after the transaction either: (1) that the defendants had advertised that they would not be held responsible for any debts contracted in their name without their authority, or (2) that the person ordering the goods was an undischarged bankrupt. The latter gave evidence for the plaintiffs, but admitted that most of the poultry went to a shop standing in his wife's name. The defendants' case was that they had none of the proceeds of sale of the poultry, and that the limitation of their relative's authority was known to the mart company, but his honour Judge McCarthy gave judgment for the plaintiffs, with costs.

AUCTIONEERS' COMMISSION.

(*Continued from* 73 Sol. J., *p.* 397.)

X.

In the recent case of *Way and Waller* v. *Reid*, at Westminster County Court, the plaintiffs claimed £61 as commission on the sale of the Hollywood Tea Rooms at Wembley, but the defendant denied that they were the effective cause of the sale, and he contended that it was through the medium of his own advertisement that he met the purchaser. The latter's evidence was that she put an enquiry to the plaintiffs, who gave her particulars of the premises in regard to which she had already answered an advertisement, and there was a subsequent meeting—without any pre-arrangement—between herself, the accountant to the company for whom she was acting, and the defendant. The plaintiffs had informed the defendant of the enquiries made by the ultimate purchaser, but their letter only arrived after the parties were already in touch, and the defendant sent no reply. His honour Judge Turner observed that the purchaser might or might not have communicated with her principal, but it was remarkable that the defendant, who lived in Cheshire, should have strolled in to meet them at the very time at which an appointment had been made by the plaintiffs for the intending purchaser to be present. Judgment was therefore given for the plaintiffs with costs.

THE MARKETABILITY OF SUBSIDY HOUSES.

At the last Nottingham Assizes, in *Hibbert* v. *Rice*, the plaintiff claimed damages for misrepresentation with regard to a house bought by him from the defendant. The latter had stated that the house was not a subsidy house, and that the price was £800, and the plaintiff eventually paid £780 in reliance upon the former understanding, but shortly after the contract the defendant applied for and obtained as builder, a subsidy of £100 from the Beeston local authority. The plaintiff's case was that he would not have paid £780, as he understood the finish and fittings were superior to those in a subsidy house, and his architect considered that the real value of the house was £625 at the time of the purchase. The defendant denied having stated that the house was a non-subsidy house, but he had told the plaintiff that there would be no subsidy for him—although he (the defendant) anticipated getting it himself. The house was superior to the lower-priced houses of a similar type, as it had been primarily intended for the defendant and his wife. The jury found for the plaintiff in the sum of £100 and costs, and Mr. Justice Branson gave judgment accordingly.

At the last Birmingham Assizes, in *Hill* v. *Sutton Coldfield Corporation*, the plaintiff claimed £1,000 as the subsidy due on twenty houses at £50 each. The plaintiff had had previous dealings with the corporation, who had paid her subsidies on houses sold at £500 each, but she had been informed that the future selling price must not exceed £450. The plaintiff lodged her forms of application, and on the plans being passed, she built the houses on the assumption that the subsidy would be granted as in former cases. The council resolved to pay the subsidies, but fixed the selling price at £400, and the resolution was later rescinded, on the ground that the plaintiff had not observed the conditions. Mr. Justice Talbot held that there had only been a conditional acceptance, which the plaintiff had rejected, and in the absence of a contract judgment was given for the defendants with costs.

BRITISH ACHIEVEMENT IN LAW.

The Principal of the Law Society School of Law gave an address on "Law" to members of the City of London Vacation Course in Education at the Holborn Restaurant on Tuesday last. Lord Gorell presided.

Mr. Radcliffe said that so far as his experience went as a teacher, examiner and administrator, the place of law in human progress and more particularly the achievements of our own country in the sphere of law, did not receive in our schools the attention which they deserved. There had been for practical purposes only two systems of law that counted in the last 2,000 years—the Roman and the English. Between them to this day they ruled the whole civilised world. The true function of our legal system was preventive, not curative. It existed to avoid disputes. Lawyers as a caste really regarded themselves as the ministers of a vital social service and were very constantly engaged in the improvement of the legal system which they served. In the duel between the two systems of law the common law, tempered by equity, triumphed, and the conjoint system had now been transplanted by Englishmen to all quarters of the globe. It was rooted in a conception of society where everybody had rights and duties, and law was superior alike to governors and governed. In other countries law was regarded as imposed from above, and the government was *legibus solutus*. This was the aspect of English law on which Dicey laid stress when he spoke of the rule of law as one of the characteristics of the English Constitution. That rule of law was in grave jeopardy, as would have been noticed from the complaints against legislation and trial by Government departments, and it was one of our most important tasks in the coming years to secure the rule of law.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Garage Proprietor's Lien for Repairs.

Q. 1690. A left his motor car with B, a motor engineer, in order that it might be put in repair. Certain repairs were done and the bill paid except for a few shillings, but the principal repairs have not yet been done because the owner of the car has not forwarded the money required for buying certain new parts, as he had promised to do. After a little while B gives notice to A to remove the car, and that he was going to charge him 1s. 6d. a week for garaging it. A took no notice and the car has been at A's works now for some months. The garage bill has amounted up to a substantial sum, although the balance owing for repairs is trifling. A cannot be found and B wishes to get rid of the car, which is in his way. It is presumed that B can charge for the garaging of the car although it was not brought there originally for that purpose, but that he would have no lien on the car for the garaging expenses; that while he would have a lien for repairs, that would simply enable him to retain the car until he was paid. If B sells the car presumably he would be liable for damages, but against any claim for damages he could put his claim for garaging, if that is chargeable. We shall be much obliged by your opinion as to what steps B can take in the matter.

A. B can charge for the garaging on an implied contract or *quantum meruit*, but will acquire no lien for the sum attributed thereto. See *Albemarle Supply Co. Ltd.* v. *Hind & Co.* [1927] 71 Sol. J., p. 777; [1928] 1 K.B., at p. 317. The right of lien for the repairs enables B to retain the car until payment, but carries no right of sale. See *Thames Iron Ship Building Co.* v. *Patent Derrick Co.* (1860), 29 L.J. Ch. 714. If B sells the car he will therefore be liable in damages for conversion, as even if he obtains the fair market price the car might be worth more to A, who could perhaps only replace it by an expenditure of a much larger sum than that realised. B need not garage the car for an unconscionable time, however, as in an action for tort the damages would not be punitive, but would be regulated according to whether the period elapsing before the sale was reasonable. The value of the car will decline with age, and as the value falls the amount of storage fees will rise, and when the two figures approach each other the occasion for a sale will have arisen. The only method by which B can put the car out of his way is not by getting rid of it, but by paying garage fees elsewhere, and adding them to his own bill. It may be that, if the car is an old pattern and of a type easily replaced, A would be deterred from suing by the improbability of recovering more than nominal damages, but before selling the car B should consider whether the amount realised will compensate the cost of defending an action, even if judgment is given for the defendant.

Scope of Judgment against Individual Partner.

Q. 1691. I was instructed by a client of mine to issue a writ against a male individual. I accordingly issued a writ which was duly served and the eight days having elapsed in which the defendant could have entered appearance, but did not do so, I signed judgment and levied execution. It subsequently transpired that there were two other individuals interested in the business of the defendant and they claimed to be partners, and therefore the sheriff's officers could not levy on the partnership goods on account of the writ having been issued against an individual and not the firm. In order to avoid interpleader proceedings I withdrew the sheriff's officers from possession. Can I take out a summons for directions to amend the writ and all subsequent proceedings? I might mention that the partnership which was alleged to exist was not registered under the Business Names Act, nor did the bill-heads or memorandums contain any other name than that of the defendant. The claim by my clients was in respect of repairs done and material supplied at the request of the male defendant. Is it correct to assume that my clients have a lien on the car, and that, even supposing the car is partnership property, we are entitled to hold it until our claim is paid? I take it that the partnership not being registered, could not sue us on any account.

A. Under Ord. 30, r. 1 (*b*), a summons for directions cannot be issued before appearance, and under Ord. 27, r. 15, a judgment by default can only be set aside at the instance of the defendant. It is therefore too late for the plaintiff to amend the writ, but he has a lien on the car for the cost of the repairs, as it is within the authority of a partner to pledge the credit of the firm in matters necessary or incidental to their business, and this implies a right to create a lien. Registration under the Business Names Act, 1916, is only a condition precedent to suing on contracts (see s. 8 (1)), whereas any claim by the above firm would be in tort for detinue or conversion, and is therefore not barred. The plaintiff could obtain a charging order under Ord. 46, r. 1A, on the defendant's share in the partnership by virtue of the existing judgment.

Local Government Act, 1929—Inconsistent Provisions in—Which Prevails.

Q. 1692. Please consider—

(*a*) Section 11 (1) of the Rating and Valuation Act, 1925;

(*b*) Section 71 of the Local Government Act, 1929;

(*c*) Section 134 of the Local Government Act, 1929, so far as it contains a definition of "appointed day";

(*d*) Section 137 of the Local Government Act, 1929.

Will you kindly say whether or not the repeal (in part) of s. 11 (1) of the Rating and Valuation Act, 1925, by s. 71 of the Local Government Act, 1929, becomes operative as from the 27th March, 1929 (the date of the Royal Assent to such Act), or on the 1st October, 1929.

A. At first sight it seems quite clear that s. 137, so far as the repeal of parts of s. 11 of the R. & V. Act, 1925, goes, is inconsistent with s. 71 also, in effect, repealing the same words. And the view is certainly held in some quarters that the effect of s. 137 is that a resolution to rate owners without reference to the frequency of payment of rent is of no avail until 1st October next; in other words, that s. 137 controls the matter. The main argument put forward is that where there are two inconsistent provisions the later in the statute prevails.

This rule, however, like the similar one with regard to wills, is only applied in the last resort, and the primary rule of construction is that all the sections must be construed together so as to make all intelligible, if possible. Moreover, a section dealing with a particular matter is not usually considered as overruled by a general section: *Pretty* v. *Solly*, 26 Beav. 60: *De Winton* v. *Brecon Corporation*, 26 Beav. 533.

Now s. 71 obviously comes into force at the passing of the Act, 27th March, unless controlled by s. 137. If the sections are closely examined it will be found that the apparent inconsistency may be made to disappear. The first part of s. 71 down to the word "collected" would have effect as an authority to disregard certain words in s. 11 of the R. & V. Act, 1925, without any direct repeal at all.

What, again, is the meaning of "cease to have effect" at the end of s. 71, as opposed to the absolute repeal to s. 137? We think the two sections can be read together this way: As from the passing of the Act the words which are to cease to have effect are to be deemed deleted from the 1925 Act as far as concerns any resolution subsequently passed by a rating authority. As regards any resolution previously passed under s. 11 of the 1925 Act, and not rescinded before the making of the current rate, the words in question remain in the latter Act until their formal repeal is affected on 1st October, 1929, by s. 137 of L. G. Act.

This is the view we take of a quite debatable point.

Taxable Profits of Business Acquired by Company.

Q. 1693. A company, called B Ltd., was registered on the 2nd May, 1927. The usual vending agreement was dated the 1st September, 1927, and provided that the company should take over the business carried on by J.R. & H.H., as from the 31st May, 1927. From what date should the company be assessed in respect of the profits of the business?

A. It is customary to assess the company as from the date of the vending agreement, viz., 1st September. Profits prior to that date are earned by the vendors, who are assessable in respect thereof, the price received by them being regarded as compensation. The company purchases the profits earned between 31st May and 1st September, but should not be assessed in respect of these profits. There appears to be no case law on the point.

Income Tax. Is it a Charge on the Property?

Q. 1694. (1) A mortgagee whose interest is in arrear enters into possession of the property (leasehold or freehold), and finds that there is an outstanding claim for income tax extending over a number of years. The mortgagee has only received the net amount of interest from the mortgagor who always deducted the income tax when paying any interest. Is the mortgagee liable to pay the outstanding claim, and if he refuses, can the income tax collector distrain or collect the rents?

(2) A mortgagee, whose interest is in arrear, sells the property under his power of sale and finds that there is a claim for tax outstanding, which extends over a number of years. The mortgagee has only received the net amount of interest from the mortgagor, who always deducted the income tax when he paid interest. The purchaser insists that the claim for tax must be discharged before completion, but the vendor (the mortgagee) finds that if he pays this claim for income tax he will not have sufficient left to repay his principal and interest. Should the mortgagee pay the claim?

A. (1) Rule 3 (*b*) of No. VII of Sched. A, Income Tax Act, 1918, provides that "nothing in this Act shall extend to authorise the levying upon an occupier for the time being of any tax under this schedule which ought to have been levied upon and *ultimately borne* by any former occupier." In this case it would appear that the mortgagee should have "ultimately borne" that portion of the tax which covered any interest he received, and that the authorities would be entitled to distrain on the premises despite the fact that the mortgagor made unauthorised deductions on paying interest. As the balance of Sched. A tax in excess of the interest would fall to be borne by the mortgagor it would seem that the Revenue authorities would have no claim for that portion on the mortgagee.

(2) Rule 3 (*b*) of No. VII of Sched. A precludes the levying on an occupier of tax which should have been "ultimately borne" by a previous occupier, and it would seem that, in this case, the purchaser would be liable for the tax on the interest which should ultimately have been paid by the vendor. It is thought that the mortgagee should pay the claim. The deductions made on payment by the mortgagor do not affect the matter. In both the above cases it can be assumed that the mortgagor is a man of straw and therefore has no assets.

Correspondence.

Dangerous Driving—Disclosure of Names, etc., of Witnesses.

Sir,—With reference to your reply to Query 1681, which appeared in your issue of the 20th instant (73 Sol. J. p. 482), as a reader of your journal, I should like to point out that the case referred to in *The Times* of the 3rd June last is that of *Police* v. *Levy*—the charge against the defendant being one of manslaughter. Messrs. Theodore, Goddard & Co., I understand, acted for Levy in the matter.

22nd July. "Subscriber."

An Alleged Chocolate Golfer.

Sir,—I am not a golfer, amateur or otherwise, and I have not a "sweet tooth" for chocolate, but I was interested, both from a lawyer's and layman's point of view, in the report of Mr. Tolley's action, which for my part I read in *The Times* newspaper.

I rather assume from your comments in "Current Topics" under the above heading in the issue of The Solicitors' Journal for the 20th July, that you do not agree that the jury's verdict and the judgment entered upon it were right.

In the course of the hearing you will doubtless recollect that certain correspondence was disclosed which, *inter alia*, made it, I submit, perfectly clear that the defendants realised that there was at all events some risk in publishing the cartoon (if it may be so called) of which complaint was made, and one can therefore readily appreciate your statement that "undue sympathy need not be wasted on the defendants."

Surely Mr. Norman Birkett, K.C., in his closing speech for the defendants, unintentionally or otherwise, "hit the right nail on the head" when he is reported as saying that people might ask "What did Mr. Tolley get for it" (i.e., the advertisement)? I suggest that this was a question which might quite reasonably have been passing in the minds of many people, and that Mr. Tolley was entirely justified in his grievance against the defendants, and in pursuing his remedy in respect of it, and that the jury's verdict was a wholly proper one.

I submit that the analogies which you suggest exist in the concluding portion of your comment are hardly in point.

However objectionable it may be to represent in picture the Bench and Bar as appreciating the merits of somebody's whisky, pills or pipes, the illustrations are obviously of wholly imaginary persons and bear no resemblance to any of H.M. judges or any learned counsel.

So far as regards the portraits of the Prime Minister or Mr. Baldwin in connexion with toffee during the recent election, no one, as you say, would suppose for a moment that either was a "hireling" of the toffee proprietors and Mr. Birkett's question, of which I have made mention, would not occur to the mind of a potential juryman.

London, N.W.1. Godfrey Smythe.

24th July.

[The suggestion in the note, of course, was of a "class libel" in imputing that judges or barristers would use their professional status and reputation to puff a tradesman. However, perhaps a proviso should have been made, in the Artemus Ward manner—"This is a goak"—Your Contributor.]

Marriage of Foreigners in England.

Sir,—With reference to your article on p. 477 of this year's Solicitors' Journal, in connexion with the *Papadopoulos Case*, it seems that the learned magistrate's solution was both logical and right. *Von Lorang's Case* is not really an authority at all, since it was a Scottish case, and private international law as understood here is a branch of the common law of

England, and there is no logical reason why the common law of Scotland should be the same as ours. It is quite true that the judgment of a competent foreign court on matters within its jurisdiction is conclusive in spite of its false premises on a legal point (*Castrique* v. *Imrie*), but the premises may be enquired into to determine what is an internationally "competent" foreign court. In questions of divorce this is settled to be the court of the domicil of the parties at the time of the decree, but a decree of nullity declaring a marriage void *ab initio*—as distinct from a decree where the marriage is annulled for non-consummation—is on a different footing. This decree purports to declare what was the legal effect of an act occurring at a previous date and the reasoning which makes the court of the domicil the competent court in divorce does not apply. It is well settled that when the validity of a marriage has to be tried in this country without reference to a foreign decree, the law to be applied is in the case of questions of form of ceremony the *lex loci celebrationis*, and in questions of contractual capacity the *lex domicilii* of the parties. By parity of reasoning the internationally "competent" court should be the court of the country where the marriage took place, and the court of the country of domicil at the time of the marriage in the respective cases. Thus neither the Court of Cyprus in *Papadopoulos Case* nor the German court in *Von Lorang's Case* would be a "competent" court, but the German court had acted on the same evidence that an English court would require in the circumstances. It seems therefore that all the English cases are reconcilable and the Scottish case was decided rightly according to English ideas, but for wrong reasons.

Piccadilly, W.1. H. B. Bingham.
23rd July.

[That private international law is a branch of the common law of England in the sense that the House of Lords would decide one way on it on an English appeal and another way on a Scots or Irish appeal is a doctrine for which I should like to know your correspondent's authority. In *Von Lorang* the cases cited and discussed by the judges were mainly English. Do your correspondents suggest that the reasoning of the judges in *Von Lorang* would be rejected by them on an appeal from an English court?—Your Contributor.]

Notes of Cases.

Court of Appeal.

Minter *v.* **Priest.**

Lord Hanworth, M.R., Lawrence and Greer, L.JJ.

28th February, 1st, 5th, 6th, 25th March.

Solicitor — Action of Defamation — Slander — Words spoken at Professional Interview — Privilege against Disclosure — Absolute Privilege — Interview for purpose of obtaining Loan — Deposit on Contract for Purchase of Real Estate — No Retainer.

This was an action for slander against a solicitor for words uttered in the course of a business interview. The plaintiff, a dealer in real property, through his agent Taylor, had entered into communication with Simpson with respect to the purchase of some of the plaintiff's property. Simpson, through his solicitors, submitted an offer of £9,500, which was accepted, and it was arranged that £475 should be paid as a deposit. Difficulties then arose with respect to the payment of the deposit, which Simpson was not prepared to pay out of his own pocket, nor were his solicitors willing to advance the sum to him. They consequently recommended him to the defendant, a solicitor, who likewise refused to find the money, and the slanders were uttered in the course of an interview between him and Simpson and Taylor. The slanders were communicated to the plaintiff by Taylor under a "seal of honour," and the plaintiff then commenced the action, which was heard before Horridge, J., and a jury. Among the questions left to the jury were the following: (1) At the time when the words complained of were uttered, did the relation of solicitor and client actually exist between the defendant of the one part and Simpson and Taylor or one and which of them of the other part? *Answer:* No, neither. (2) Did the defendant reasonably believe that Simpson and Taylor, or one and which of them, would wish to retain him as solicitor? *Answer:* No, neither. The jury assessed the damages at £1,500, and judgment was given for that sum. The defendant appealed, and after arguments of counsel lasting for several days, judgment was reserved.

Lord Hanworth, M.R., said that the questions which the court had to determine were whether the judge was right in leaving the questions to the jury and whether there was any evidence relating to them proper to be left for their consideration. Certain principles had been laid down which were binding upon that court. It was clear, from a recent case, that where a solicitor had in fact been retained all that passed between him and his client was absolutely privileged. Earlier, Lord Bowen suggested a further privilege, namely, that all that passed between a solicitor and a presumptive client with a view to the client retaining the solicitor to act for him was protected by privilege, if the client did in fact retain the solicitor. After consideration of the cases it appeared that that last qualification was unnecessarily narrow. If what passed was with a view to, and for the purpose of, retaining the solicitor, then it was protected, even if the solicitor did not accept the retainer. The privilege was the privilege of the client, as had been often explained, and was an absolute privilege in the sense that if the relation from which it arose was established the matters which occurred during its continuance could not be inquired into.

There might be a qualified privilege, or protection from liability for the publication of defamatory matter which was given by the law of libel on certain occasions, before or after the stage of the privilege of an attorney from disclosure had begun or ended, or such as arose where one party made a statement to another and both had a corresponding interest and duty in respect of the subject-matter, but that claim was not relied on in the present case. It was the privilege from disclosure of the client in his communications with his solicitor which was claimed to afford a protection to the defendant here, because it was claimed that the nature of the business on which Simpson and Taylor went to consult the defendant was to be characterised properly as solicitor's business.

The Master of the Rolls respectfully agreed with the rule laid down by the full court in *R.* v. *Cox & Railton*, 14 Q.B.D., at p. 176, which in his judgment applied to the evidence admissible on the question whether privilege was established as well as to its destruction—"the courts must in every case judge for themselves on the special facts of each particular case, just as they must judge whether a witness deserves to be examined on the supposition that he is hostile or whether a dying declaration was made in the immediate prospect of death." Applying that rule to the present case, it appeared that the judge was quite right in admitting the evidence as to the circumstances in which, and the purposes for which, Simpson and Taylor left their solicitor and resorted to the defendant. Unfortunately the cases to which the attention of the Court of Appeal was drawn (*Jones* v. *Pugh*, 1 Ph. 97, and *Carpmael* v. *Powis*, 1 Ph. 687), were not cited to the judge, and in his direction to the jury he drew a distinction between a visit to the defendant for the purpose of getting a loan wherewith to make the deposit on the contract of purchase of 19 Hertford-street and for the purpose of consulting the defendant as a solicitor. The evidence given on that point was all one way. It confirmed the view that the visit to the defendant was on professional business, as interpreted by Lord Lyndhurst in those cases, and established the

professional privilege before the evidence of the defamatory statements was given. Further, the evidence did not prove that the professional interview had ceased when those statements were made. The judge ought not to have left questions (1) and (2) to the jury, but to have ruled that, on the only evidence tendered, the interview was protected by professional privilege and that the evidence of what the defendant said could not be admitted.

LAWRENCE, L.J., and GREER, L.J., also delivered judgment allowing the appeal, the latter adding that if the evidence had been properly before the court, it would have been difficult to decide the question, which did not arise in the present case, whether the occasion was one of absolute or qualified privilege, and that he desired to reserve his opinion on the point.

Appeal allowed; judgment entered for defendant, with costs.

COUNSEL: *Sir H. Maddocks*, K.C., and *A. E. Woodgate*, for appellant; *H. Infield* and *C. E. Austin*, for respondent.

SOLICITORS: *Freeman, Haynes & Co.; Clarke & Co.*

[Reported by J. F. ISELIN, Esq., Barrister-at-Law.]

Dennerley *v.* Prestwich Urban District Council.

Scrutton, Greer and Slesser, L.JJ. 30th July.

LOCAL AUTHORITY—LIMITATION OF ACTIONS—PRIVATE STREET WORKS—EXPENSES—APPORTIONMENT—RECOVERY OF EXPENSES—SIMPLE CONTRACT DEBT—OWNER FOR TIME BEING—LIMITATION ACT, 1623, 21 Jac. I, c. 16, s. 3—PRIVATE STREET WORKS ACT, 1892, 55 & 56 Vict. c. 57, s. 12 (1), 13 (1), 14.

Appeal from a judgment of Shearman, J., on a special case stated for the opinion of the Court. In August, 1910, the defendants, the Prestwich Urban District Council, who had adopted the Private Street Works Act, 1892, made under s. 12 of that Act a final apportionment of the expenses of certain street works in a street in their district on the frontagers in that street. One of the frontagers was one Richard Fitton, who was the owner of a vacant plot of land fronting on the street. Fitton did not pay his apportioned share, which amounted to £80 12s. 11d., and the defendants became entitled to a charge on Fitton's vacant plot in respect thereof, together with interest at 4 per cent. per annum under s. 13 (1) of the Private Street Works Act, 1892. In 1927 the apportioned share of expenses on Fitton's land being still unpaid, Dennerley (the plaintiff) bought Fitton's land and built a house thereon under the promise of a subsidy from the local authority. When the local authority came to pay the subsidy, they set-off against it the amount alleged to be due from Dennerley as owner for the time being of the land in respect of the charges apportioned on the land. In July, 1928, Dennerley brought an action against the defendant council claiming £225 as the balance of the subsidy due from the defendants to him in respect of three houses which had been erected by him in the defendants' district. The defendants paid the plaintiff £88 6s. 10d., but they claimed to set-off the balance of £136 13s. 2d. alleged to be due in respect of the street works, being £80 12s. 11d., the amount of the original claim as apportioned under s. 12 of the Act of 1892, plus £56 0s. 3d. interest under s. 13 of the same Act. The plaintiff contended that the local authority's claim was barred by the statute of limitations.

SHEARMAN, J., held that if a new owner of the property appeared, even after a century, a new demand might be served on him and the statute of limitations would begin to run only from the date of that demand. The local authority were therefore entitled to set-off the apportioned share of the expenses against the plaintiff's claim. The plaintiff appealed.

The COURT (SCRUTTON, GREER and SLESSER, L.JJ.) held that time did not begin to run in favour of the plaintiff until a demand had been made on him, for until that had been done he was under no personal liability to the defendants. The plea of the Statute of Limitations therefore failed. Appeal dismissed.

COUNSEL: *R. A. Glen*, for the appellant; *W. E. P. Done*, for the respondents.

SOLICITORS: *Gregory, Rowcliffe & Co.*, for *Grundy, Lamb and Grundy*, Manchester; *Routh, Stacey & Castle*, for *Orford and Sons*, Manchester.

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

Long Vacation, 1929.

NOTICE.

During the Vacation, up to and including Thursday, 5th September, all applications "which may require to be immediately or promptly heard," are to be made to The Hon. Mr. Justice LUXMOORE.

COURT BUSINESS.—The Hon. Mr. Justice LUXMOORE will, until further notice, sit in The Lord Chancellor's Court, Royal Courts of Justice, at half-past 10 on Wednesday in each week commencing on Wednesday, 7th August, for the purpose of hearing such applications of the above nature, as, according to the practice in the Chancery Division, are usually heard in court.

PAPERS FOR USE IN COURT.—CHANCERY DIVISION.—The following Papers for the Vacation Judge are required to be left with the Cause Clerk in attendance at the Chancery Registrars' Office, Room 136, Royal Courts of Justice, on or before 1 o'clock, two days previous to the day on which the application to the Judge is intended to be made:—

1.—Counsel's certificate of urgency or note of special leave granted by the Judge.

2.—Two copies of notice of motion, one bearing a 5s. adhesive stamp.

3.—Two copies of writ and two copies of pleadings (if any).

4.—Office copy affidavits in support, and also affidavits in answer (if any).

No Case will be placed in the Judge's Paper unless leave has been previously obtained or a Certificate of Counsel that the Case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

N.B.—Solicitors are requested when the application has been disposed of, to apply at once to the Judge's Clerk in Court of the return of their papers.

URGENT MATTERS WHEN THE JUDGE IS NOT PRESENT IN COURT OR CHAMBERS.—Application may be made *in any case of urgency*, to the Judge personally (if necessary), or by post or rail, prepaid, accompanied by the brief of Counsel, office copies of the affidavits in support of the application, and also by a Minute, on a separate sheet of paper, signed by Counsel, of the order he may consider the applicant entitled to, and also an envelope, sufficiently stamped, capable of receiving the papers, addressed as follows:—"Chancery Official Letter: To the Registrar in Vacation, Chancery Registrars' Office, Royal Courts of Justice, London, W.C.2."

The address of the Vacation Judge can be obtained on application at Room 136, Royal Courts of Justice. Vacation Registrar.—Mr. RITCHIE (Room 188).

CHANCERY CHAMBER BUSINESS.—The Chancery Chambers will be open for Vacation business on Tuesday, Wednesday, Thursday and Friday in each week, from 10 to 2 o'clock.

KING'S BENCH CHAMBER BUSINESS.—The Hon. Mr. Justice LUXMOORE will sit for the disposal of King's Bench Business in Judge's Chambers at 11 a.m. on Tuesday in each week.

PROBATE AND DIVORCE.—Summonses will be heard by the Registrar, at the Principal Probate Registry, Somerset House, every day during the Vacation at 11.30 (Saturdays excepted).

Motions will be heard by the Registrar on Wednesdays, the 14th and 28th August, and the 11th and 25th September, at the Principal Probate Registry at 12.15.

Decrees will be made absolute on Wednesdays, the 7th and 21st August, the 4th and 18th September and the 2nd October.

All Papers for making Decrees absolute are to be left at the Contentious Department, Somerset House, on the preceding Thursday, or before 2 o'clock on the preceding Friday. Papers for Motions may be lodged at any time before 2 o'clock on the preceding Friday.

The Offices of the Probate and Divorce Registries will be opened at 10 a.m. and closed at 4 p.m., except on Saturdays, when the Offices will be opened at 10 a.m. and closed at 1 p.m.

Vacation Notes.

The Law Society's offices will be open till the 30th September, between the hours of 10 a.m. and 3 p.m., closing on Saturdays at 1 p.m. The hall, libraries and common room will be open from the usual hour to 6 p.m. during the same period.

The Lincoln's-inn library will be open during the vacation from 11 a.m. to 4 p.m. (last week, 10 a.m. to 4 p.m., Tuesdays 11 a.m. to 5 p.m.). It will be closed on Saturdays.

The Inner Temple library will be closed during August. From the 1st to the 20th September it will be open daily from 10 a.m. to 2 p.m., except on Saturdays, when it will be closed. From the 21st to the 30th September it will be open from 10 a.m. to 4 p.m., Saturdays 10 a.m. to 2 p.m.

The Middle Temple library will be open during the vacation between 10 a.m. and 4 p.m., Saturdays 10 a.m. to 1 p.m.

The Gray's-inn library will be open during the Long Vacation as follows: The 1st to the 31st August, from 10 a.m. to 2 p.m. (closed on Saturdays); the 1st to the 30th September, from 10 a.m. to 4 p.m. (Saturdays, 10 a.m. to 1 p.m.).

The chambers of the Registrar of Companies (Winding-up) Bankruptcy-buildings, Carey-street, will be opened on Monday, Tuesday, Wednesday, Thursday and Friday in every week during the Long Vacation from 11 to 2. Applications to the registrar, which require to be immediately or promptly heard, and of the nature of vacation business, are to be made to the registrar in attendance. Petitions and applications, which may require to be immediately heard are to be made to Mr. Justice Luxmoore, who will sit as Long Vacation judge in the Lord Chancellor's Court, on every Wednesday in the vacation at 10.30. No petition will be placed in the judges' list unless leave has been previously obtained, and no other application will be so placed without such leave or a certificate of counsel that the case requires to be immediately or promptly heard, and stating concisely the reasons, is left with the papers.

There will be no session held at the Guildhall, Westminster, for cases arising in the county of Middlesex during the present month. The next session (Michaelmas Quarter Sessions) will commence on Saturday, the 21st September, at 10.30.

In Parliament.

House of Lords.

The Royal Assent was given to the following Bills:—

1. Isle of Man (Customs) Act, 1929.
2. Government of India (Aden) Act, 1929.
3. Unemployment Insurance Act, 1929.
4. Irish Free State (Confirmation of Agreement) Act, 1929.
5. Colonial Development Act, 1929.
6. Housing (Revision of Contributions) Act, 1929.
7. Development (Loan Guarantees and Grants) Act, 1929.
8. Land Drainage Act, 1929. 26th July.

House of Commons.

Questions to Ministers.

DEVELOPMENT SCHEMES (ADVISORY COMMITTEES).

Mr. MACKINDER (by Private Notice) asked the Lord Privy Seal whether he is now in a position to announce the constitution of the new Advisory Committees under the Development (Loan Guarantees and Grants) Act and the Colonial Development Act.

THE LORD PRIVY SEAL (Mr. J. H. Thomas): The following gentlemen have agreed to serve on the Advisory Committee under the Development (Loan Guarantees and Grants) Act:—

Sir Arthur Duckham, K.C.B. (Chairman).
Mr. Gaspard Farrer.
Mr. George Hicks.
Sir Clement Hindley.
Sir Frederick Lewis, Baronet.
Sir William McLintock, G.B.E., C.V.O.
Sir Henry Maybury, G.B.E., K.C.M.G., C.B.
Mr. Frederick Palmer, C.I.E., M.Inst.C.E.
Mr. Arthur Pugh.

The following have agreed to serve on the Advisory Committee under the Colonial Development Act:—

Sir Basil Blackett, K.C.B., K.C.S.I. (Chairman).
Mr. Ernest Bevin.
Mr. R. H. Jackson.
Sir Felix Pole.
Mr. Alan Rae Smith, O.B.E.

There is one further appointment to be made to this Committee. 26th July.

Rules and Orders.

RULES OF THE SUPREME COURT.

Order LXI, Rule 33.

Whereas the Masters have prescribed the use in and for the purposes of the Central Office of the form set out in the Schedule to this Order, being Form No. 7 in Appendix K. to the Rules of the Supreme Court modified as they have deemed expedient:

Now, therefore, I, John Lord Sankey, Lord High Chancellor, in pursuance of Order LXI, Rule 33, of the Rules of the Supreme Court, approve the use of the said modified Form in and for the purposes of the District Registries.

Dated the 5th day of July, 1929.

Sankey, C.

Schedule.

Order under Order XIV., No. 2a.

H. 9.

IN THE HIGH COURT OF JUSTICE.

KING'S BENCH DIVISION. 192 , No.

MASTER MASTER IN CHAMBERS.

BETWEEN

Plaintiff,

and

Defendant.

Upon hearing the solicitors for the plaintiff and defendant and upon reading the affidavit of filed herein

It is ordered that the defendant be at liberty to defend this action on condition that the action be entered in the short cause list for trial [by a Judge alone] or [by a Judge and . . . . . jury].

And it is Ordered that if the defendant proposes at the trial to rely on any defence or counterclaim not disclosed in his affidavit in opposition to the application for Judgment, he do within four days from the date of this order deliver to the Plaintiff's Solicitor particulars of such defence or counterclaim in writing, and that he be precluded from relying on any defence or counterclaim not raised in such affidavit or in such particulars, except by the leave of the Judge who tries the action.

And it is Ordered that the plaintiff and the defendant do within six days from the date of this order exchange lists of documents.

And that the costs of this application be

Dated the day of 192 .

Legal Notes and News.

Honours and Appointments.

The Lord Chancellor has appointed His Honour Judge CHAPMAN to be the Judge of the County Courts on Circuit No. 15 (York, etc.) after the 19th September, 1929, in succession to His Honour Judge McCarthy, who will retire from office on that date.

The following awards have been made in the Faculty of Laws at University College, London: Entrance Scholarship, MABEL DEXTER (Wrexham County School); Joseph Hume Scholarship in Jurisprudence, E. JENKINS; English Law, Reader's Prizes in Equity, third year, T. J. F. HOBLEY, second year, R. C. FITZGERALD and J. H. JACOB, equal.

The Council of Legal Education announce the appointment of Mr. GILBERT H. J. HURST, M.A., LL.M. (Cantab), of Lincoln's Inn, Barrister-at-Law, as Assistant Reader in Equity at the Inns of Court. Mr. Hurst was called in 1903.

The Minister of Health (The Right Hon. Arthur Greenwood, M.P.) has appointed Mr. H. W. S. FRANCIS, O.B.E., to be a Principal Assistant Secretary and Mr. R. N. N. KEENLYSIDE, O.B.E., and Mr. J. N. BECKETT to be Assistant Secretaries of the Ministry.

Mr. Clifford K. Wright (B.A. Oxon), solicitor, Deputy Town Clerk of Loughborough, has been appointed Deputy Town Clerk of Hampstead in succession to Mr. Ernest Carter, who is retiring at the end of October. Mr. Wright was admitted in 1924.

Mr. Morris L. Taylor, LL.B., Assistant Solicitor in the department of the Town Clerk of Ipswich (Mr. Alexander A. Moffatt) has been appointed Deputy Town Clerk of Chester, in succession to Mr. Thos. B. Feltham, Solicitor, whose appointment as Town Clerk of Hereford was announced in these columns on the 15th June last. Mr. Taylor was admitted in 1926.

Sir Allan Powell, C.B.E., Barrister-at-Law, has been appointed Chief Officer of Public Assistance under the London County Council. Sir Allan Power has been in the service of the Metropolitan Asylums Board for thirty-five years, occupying the position of Clerk since 1922.

Mr. H. Allen Armitage, solicitor, Clerk to the Gloucester Board of Guardians and to the Justices of the Newent Division, has been appointed Public Assistance Officer under the Gloucestershire County Council.

Mr. A. Howlett, Chief Clerk in the Department of the Town Clerk of Folkestone (Mr. C. Freer Nicholson), has been appointed Deputy Town Clerk of that borough.

Mr. B. T. Waterhouse has been appointed Clerk to the Orsett (Essex) Rural District Council and Board of Guardians, in succession to Mr. Chas. Asplin, solicitor, who has notified his intention of retiring on the 30th September next.

EXTENSION OF SERVICE.

The Hampstead Borough Council have decided to retain the services of Mr. Arthur P. Johnson, M.A., Solicitor, as Town Clerk for a further period of a year. Mr. Johnson was due to retire in January next upon superannuation and is the first town clerk of Hampstead. He is President of the National Association of Local Government Officers.

Presentations.

Mr. L. C. Evans, solicitor, who is retiring from the position of Town Clerk of Salford, has been presented by the Town Clerks of the County Boroughs of Lancashire with a silver salver.

Mr. Robert A. Wheatley, M.A., B.C.L., solicitor, Clerk of the Peace and Clerk to the Pembrokeshire County Council, has been presented by his colleagues with an inscribed silver salver to mark the celebration of his silver wedding.

At a farewell luncheon at the Bradford Town Hall recently, the Town Clerk, Mr. Norman L. Fleming on behalf of the officers of the Corporation, presented a nest of tables to Mr. J. G. Gunter, solicitor, Deputy Town Clerk, who is leaving to take up the appointment of Assistant Solicitor to the Central Electricity Board.

Resignations.

Mr. Henry L. Cancellor, who has been a Metropolitan Police Magistrate for fifteen years, having sat at the Thames, West London and Marlborough-street Courts, has, we regret to say, resigned his office on account of ill-health. He will be succeeded by Mr. R. E. Dummett, of the Clerkenwell Police Court. Mr. Cancellor, who was born in 1862, was educated at Eton and University College, Oxford. He was called to the Bar in 1888.

The County Council of Cornwall have decided that the appointment of Clerk of the Peace and of the County Council shall carry with it a salary of £1,200 per annum, rising by increments to £1,500.

Professional Partnerships Dissolved.

Edward Meade-King, Cyril Meade-King, Edward Cartwright, Herbert Edgar Cooke, John Stubbs Harrison, and Matthew Henry Laxton, solicitors, 22-24 Orchard-street, Bristol (Meade-King and Co.), by mutual consent as from 1st July, so far as concerns the said E. Cartwright, who retires from the firm. E. Meade-King, C. Meade-King, H. E. Cooke, J. S. Harrison and M. H. Laxton will continue to carry on the said business in partnership under the same style or firm.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (7th February, 1929) 5½%. Next London Stock Exchange Settlement Thursday, 15th August, 1929.

	Middle Price 7th Aug.	Interest Yield.	Yield with Redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	82	4 17 7	—
Consols 2½%	53½	4 13 6	—
War Loan 5% 1929-47	100¾	4 19 3	—
War Loan 4½% 1925-45	94½	4 15 3	5 0 0
War Loan 4% (Tax free) 1922-42	100¼	3 19 10	4 0 0
Funding 4% Loan 1960-1990	85	4 14 2	4 15 0
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	90½	4 8 5	4 11 0
Conversion 4½% Loan 1940-44	94½	4 15 3	5 0 0
Conversion 3½% Loan 1961	74	4 14 7	—
Local Loans 3% Stock 1912 or after	61½	4 17 7	—
Bank Stock	244	4 18 4	—
India 4½% 1950-55	87	5 3 6	5 9 6
India 3½%	65½	5 6 10	—
India 3%	56½	5 6 2	—
Sudan 4½% 1939-73	92	4 17 10	4 19 0
Sudan 4% 1974	84	4 15 3	4 17 6
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years)	82	3 13 2	4 4 0
Colonial Securities.			
Canada 3% 1938	85	3 10 7	5 2 0
Cape of Good Hope 4% 1916-36	93	4 6 0	5 4 0
Cape of Good Hope 3½% 1929-49	80	4 7 6	5 2 0
Commonwealth of Australia 5% 1945-75	95	5 5 3	5 5 6
Gold Coast 4½% 1956	94	4 15 9	4 18 0
Jamaica 4½% 1941-71	94	4 15 9	4 17 0
Natal 4% 1937	93	4 6 0	5 4 0
New South Wales 4½% 1935-45	89	5 1 2	5 11 0
New South Wales 5% 1945-65	95	5 5 3	5 6 0
New Zealand 4½% 1945	93	4 16 9	5 3 0
New Zealand 5% 1946	99	5 1 0	5 2 0
Queensland 5% 1940-60	95	5 5 3	5 6 6
South Africa 5% 1945-75	99	5 1 0	5 1 0
South Australia 5% 1945-75	95	5 5 3	5 1 0
Tasmania 5% 1945-75	95	5 5 3	5 1 0
Victoria 5% 1945-75	95	5 5 3	5 1 0
West Australia 5% 1945-75	95	5 5 3	5 1 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	60	5 0 0	—
Birmingham 5% 1946-56	100	5 0 0	5 0 0
Cardiff 5% 1945-65	101	4 19 0	4 19 0
Croydon 3% 1940-60	69	4 6 11	4 18 6
Hull 3½% 1925-55	76	4 12 1	5 4 0
Liverpool 3½% Redeemable by agreement with holders or by purchase	70	5 0 0	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	52	4 16 3	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	61½	4 17 7	—
Manchester 3% on or after 1941	60	5 0 0	—
Metropolitan Water Board 3% 'A' 1963-2003	62	4 16 9	—
Metropolitan Water Board 3% 'B' 1934-2003	62	4 16 9	—
Middlesex C. C. 3½% 1927-47	81	4 6 5	5 2 6
Newcastle 3½% Irredeemable	70	5 0 0	—
Nottingham 3% Irredeemable	60	5 0 0	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	100	5 0 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	78½	5 1 11	—
Gt. Western Rly. 5% Rent Charge	96	5 4 2	—
Gt. Western Rly. 5% Preference	91½	5 9 3	—
L. & N. E. Rly. 4% Debenture	74	5 8 1	—
L. & N. E. Rly. 4% 1st Guaranteed	71	5 12 8	—
L. & N. E. Rly. 4% 1st Preference	64	6 5 0	—
L. Mid. & Scot. Rly. 4% Debenture	76½	5 4 7	—
L. Mid. & Scot. Rly. 4% Guaranteed	75	5 6 8	—
L. Mid. & Scot. Rly. 4% Preference	68	5 17 8	—
Southern Railway 4% Debenture	76½	5 4 7	—
Southern Railway 5% Guaranteed	97	5 3 0	—
Southern Railway 5% Preference	86	5 16 3	—

GENTLEMAN, accustomed to committee work and shorthand, with experience in reference work under the Rating and Valuation Act, will be free shortly; good worker; reasonable salary if some prospects.—Apply, in first instance, "R.," Box 55, c/o Solicitors' Journal, 29, Breams-buildings, E.C.4.

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HOLIDAY Locum Tenens.—London Solicitor prepared to relieve country practitioners; thoroughly experienced conveyancing or litigation. Nominal terms in suitable locality (pref. South or West).—"A.K.," Box 150, Solicitors' Journal, 29, Breams-buildings, E.C.4.

PRACTISING Solicitor would consider appointment as assistant where proper facilities would be given for the conduct of his own practice on terms. Experience mostly conveyancing and High Court litigation, some advocacy. London only.—Write "M.," Box 353, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, B.A., LL.B. (Camb.), available for locum work or to assist busy solicitor. South. Conveyancing, probate, trust, and general.—Box 95, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ADMITTED Managing Clerk, general practice large city seven years, two years sole charge, desires engagement owing to amalgamation. Specialities: litigation, advocacy. Athletic, bachelor, and insatiable worker. —"M.P.," Box 459, c/o Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (37), now in practice on own account, small connection, desires managing clerkship in London, with liberty to practise. Salary by arrangement.—"J.," Box 448, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Solicitor undertakes drafting accounts, looking up points, etc., for busy solicitors in return for small charge.—"E.," Box 275, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (2nd Class Honours), with over 30 years' continuous experience in conveyancing, trust and probate work, willing to assist Solicitors by post.—"S," Box 312, Solicitors' Journal, 29, Breams-buildings, E.C.4.

EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION, OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone: Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion, and the name of this paper.

RANKER OFFICER (Captain) seeks employment, any position of trust, clerical, accountancy, caterer, steward, cook or assistant, chef, hotel or steamship; willing to go anywhere or do anything at any time. 10919.

EX-OFFICER desires post as Estate Agent or Bailiff, eight years' experience, or any other outdoor occupation. Can drive car. 10937.

REGULAR OFFICER (Retired), young, energetic and reliable, of Italian extraction, desires employment in any position of trust and responsibility; preferably with reputable Italian firm. 10783

EX-LIEUT. R.N.R., Master Mariner, 39, married, 17 years' sea, five years' commercial experience; used to Lascars and Chinese, desires situation at home or abroad, willing to do anything or go anywhere. 10945

EX-OFFICER, 34, 15 years' experience shipping, purchase and sales departments, general export merchant; also coal and coke trade; office management, correspondence, shorthand-typing, seeks any commercial position of trust. Highest refs. 10830

WANTED by Ex-Officer, age 50, active, temperate, good education, position of responsibility home or abroad; Oriental languages; would travel India and East for whisky or tobacco firm. 10933

ARTICLED CLERKS, &c.

SOLICITOR, with old-established practice in rising popular seaside resort in West of England, has vacancy for articled clerk; premium £300. Terms could be arranged for board residence.—Box 164, Solicitors' Journal, 29, Breams-buildings, E.C.4.

OLD-ESTABLISHED Firm, London Chartered Accountants has vacancy for Articled Clerk. Moderate premium, returnable by way of salary.—Write Box 157, Solicitors' Journal, 29, Breams-buildings, E.C.4.

VACANCY exists in old-established conveyancing and general practice in the Midlands. Pleasant surroundings.—Box 149, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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SOLICITOR, general practice and clerk to local authority in growing South Coast town, has vacancy for articled clerk. Public school man preferred. Good prospects for suitable man used to country life.—Box No. 87, Solicitors' Journal, 29, Breams-bldgs., E.C.4.

PRACTICES AND PARTNERSHIPS.

PROVINCIAL Stockbroker, with growing practice, requires Partner with capital, preferably public school man. Good position found. Excellent prospects for suitable applicant.—For further particulars apply Box 159, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Solicitor would like to buy a well-established practice in the West Central district of London, yielding about £1,000 per annum net, after probationary period.—Apply Hooper & Son, 41, Snow-hill, E.C.1.

SOLICITOR, practising own account, desires to purchase established progressive Conveyancing and General Practice producing average net profit £1,000 per annum in London.—Box 124, Solicitors' Journal, 29 Breams-buildings, E.C.4.

PARTNER, with moderate capital, wanted, aged 30-40 (preferably public school man, and resident in or near S.E. London) in old-established conveyancing and general solicitors' practice in S.E. London and City, owing to impending partial retirement of present senior partner.—Box 86, Solicitors' Journal, 29, Breams-buildings, E.C.4.

ENERGETIC solicitor, good advocate, requires sound litigious, conveyancing and general practice, in Kent.—Reply "B.," Box 525, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR desires to purchase old-established general and conveyancing practice in or near London showing substantial profits; or early succession.—Box 99, Solicitors' Journal, 29, Breams-buildings, E.C.4.

MR. NOAH A. RIGBY, Solicitor and Commissioner for oaths, St. Helens, Lancashire, is desirous of purchasing the succession to or a partnership in a substantial country practice and will be pleased to hear from any solicitor or firms of solicitors of good standing who are open to negotiation; capital available; excellent credentials; highest references given and required.

INVESTMENTS.

MORTGAGES.—Gentleman having large fund at his disposal would like to receive particulars of Securities for investment; flats, weeklies, garages and second mortgages entertained; also debentures arranged. —"M.," Box 459, Smith's Agency, Ltd., 100 Fleet-street, London, E.C.4.

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INVESTIGATIONS.

ENQUIRIES and INVESTIGATIONS.—John Conquest, 36 Great James-street, Bedford-row, W.C.1 (Holborn 3866). Established 1899.

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ENGLISH and Empire Digest complete to date in 42 volumes and supplement, nice condition £29.—"B.," Box 161, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WANTED.—Chitty's King's Bench Forms. 1923, last edition.—H, Box 17, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WANTED to Purchase, set of Encyclopædia of Forms and Precedents, by Butterworth, latest edition, thin paper edition; quote price.—Box 117, Solicitors' Journal, 29, Breams-buildings, E.C.4.

WANTED to Purchase.—Recent editions of the following books: (I) "Lumleys Public Health Acts"; (II) "Mozley and Whiteleys Law Dictionary"; (III) "Hunt's Boundaries and Fences." State lowest cash price in each case to "W.," Box 17, Solicitors' Journal, 29, Breams-buildings, E.C.4.

EDUCATIONAL.

THE WELLS SCHOOL, Ilkley, Yorks.—A Preparatory School for the Public Schools and R.N.C., Dartmouth. Individual attention to each boy's health, work and games.—For prospectus, etc., apply to the Headmaster (Mr. C. L. Farrer, Christ's College, Camb.).

INFORMATION REQUIRED.

2s. per line.

RE THOMAS WILGRESS SMITH DONALD, deceased.—FREDERICK WILLIAM DONALD is requested to communicate with Alfred Double & Sons, of 63, Fore-street, London, E.C.2, Solicitors for the Public Trustee.

BURGESS.—The kin of ELIZABETH, otherwise ELIZA, BURGESS, Spinster, late of The Lyndons, Hampsthwaite, Knaresborough, Yorks, who died at Knaresborough on 4th March, 1929, are requested to APPLY to the Treasury Solicitor, (B.V.) Storey's-gate, London, S.W.1. (Estate about £200.)

RE JOHN SAMUEL COLE, deceased, late of Willoughby, near Sydney, New South Wales. Notice. MERCY LYDIA SPENCER (formerly COLE), wife of Thomas Septimus Spencer (believed to have been living in the vicinity of Old Kent-road, London, S.E., in December, 1906), a legatee under the Will of the above deceased (or her lawful issue), were advertised for in this paper on the 13th May, 1929. Attention is called to such advertisement and any INFORMATION should be sent to the undersigned.—ASHURST, MORRIS, CRISP and CO., Solicitors, 17, Throgmorton-avenue, London, E.C.2, Agents for J. T. Ralston and Son, Sydney, N.S.W., Solicitors for the Executor.

RE JEANETTE ZOLKI.—Will Jeanette Zolki or any person who has information as to her present address, if alive, or place of death, if dead, at one time living at 146, Broad-lane, Sheffield, and who is thereafter believed to have left England for Pennsylvania, oblige by COMMUNICATING with Henry Vickers, Son & Brown, Solicitors, 50, Bank-street, Sheffield.

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